

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 98-413-C - ORDER NO. 1999-4  
JANUARY 5, 1998

IN RE: Application of VoiceMagic, Inc. and	)	ORDER GRANTING
VoiceMagic Telecommunications, Inc. for a	)	LOCAL AND LONG
Certificate of Public Convenience and	)	DISTANCE AUTHORITY
Necessity to Operate as a Competitive Local	)	
Exchange Carrier and as a Reseller of	)	
Interexchange Telecommunications Services	)	
within the State of South Carolina.	)	

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of the Application of VoiceMagic, Inc. (VoiceMagic) and VoiceMagic Telecommunications, Inc. (VoiceMagic Telecom)(singly, the company) (collectively, the companies) for authority to provide both local exchange and long distance telecommunications services within the State of South Carolina. Local authority is being requested in areas of South Carolina in which BellSouth Telecommunications, Inc., GTE South, Inc., and United Telephone Company of the Carolinas are the incumbent local exchange carriers. The Application was filed pursuant to our Order No. 98-490, S.C. Code Ann. Sections 58-9-280, and 58-9-520, and the Regulations of the Commission.

By letter, the Commission's Executive Director instructed the companies to publish, one time, a prepared Notice of Filing and Hearing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice was to inform interested parties of the manner and time in which to file the appropriate pleadings

for participation in the proceedings. Petitions to Intervene were filed by BellSouth Telecommunications, Inc. (BellSouth), the South Carolina Telephone Association (SCTA), and the South Carolina Telephone Coalition (SCTC).

A hearing was commenced on December 2, 1998 at 11:30 AM in the Commission's Hearing Room. The Honorable Philip T. Bradley, Chairman, presided. The companies were represented by Gary C. Pennington, Esq. M. John Bowen, Jr., Esq. and Margaret Fox, Esq. represented SCTA and SCTC. The Commission Staff was represented by F. David Butler, General Counsel. BellSouth did not make an appearance in the case.

M. Steven Rogers, President of VoiceMagic, Inc. and Vice-President of Marketing and Corporate Secretary/Treasurer of VoiceMagic Telecommunications, Inc. offered testimony in support of the companies' Application. The record reveals that the companies are South Carolina corporations. Rogers testified that VoiceMagic Telecom is actually seeking the authority to provide local and long distance telecommunications services, but that VoiceMagic, Inc.'s name was included on the Application as a precaution, since VoiceMagic, Inc. was actually ordered to apply for a Certificate in Commission Order No. 98-490.

Rogers testified that VoiceMagic Telecom will provide local service to customers through: (I) the resale of services and facilities provided by the incumbent local exchange carriers, other authorized providers and competitive local exchange carriers, including affiliates; (II) through the use of facilities that VoiceMagic Telecom has or will deploy; or (III) through some combination thereof. According to Rogers, VoiceMagic Telecom

also intends to provide interexchange telecommunication services to business and residential customers through (I) the resale of services and facilities by utilizing the network facilities of interexchange carriers authorized by this Commission; (II) through the use of facilities that the company has or will deploy; or (III) through some combination thereof. The customer will become a customer of VoiceMagic Telecom, and not the underlying carrier. This company will have the responsibility of billing, trouble reporting, and customer service. VoiceMagic Telecom plans to provide telecommunications services from points of origin in South Carolina to destination points in South Carolina, and other parts of the United States, and foreign countries. At present, VoiceMagic Telecom does not own, operate, control or manage a telecommunication transmission facility. This company will provide offerings for the transmission and reception of voice, data, and other types of telecommunications which may include basic as well as non-basic or enhanced services on a twenty-four (24) hour basis, seven (7) days a week.

According to Rogers, VoiceMagic Telecommunications, Inc. is an affiliated company of VoiceMagic, Inc., with common shareholders, facilities, management, staff, and sales force. VoiceMagic Telecom was established by VoiceMagic, Inc.'s shareholders for the purpose of operating as a competitive local exchange carrier, and to resell interexchange services in South Carolina. VoiceMagic will continue as a separate entity and shall provide certain services not regulated by this Commission.

As Rogers noted, the services provided by VoiceMagic have been examined in great detail by this Commission, and resulted in the issuance of Order No. 98-490, which

ordered VoiceMagic to complete several tasks. VoiceMagic represents that it will negotiate with the local exchange carriers to use any necessary services in compliance with that Order.

Further, Rogers explained that VoiceMagic Telecom possesses the managerial, financial, and technical resources and abilities to provide interexchange and local exchange telecommunications services. With regard to managerial resources, Rogers states that the company's senior management team has substantial experience and expertise in telecommunications. Financially, VoiceMagic Telecom will be financially supported by its affiliated company, VoiceMagic. Rogers pointed out a substantial increase in that company's revenues between 1992 and 1997. With regard to the technical resources, Rogers states that the company will be providing services initially on a resale basis for both local and long distance services, and, therefore, will be relying in large part on the underlying technical capabilities and networks of the incumbent local exchange carriers, as well as the networks and capabilities of major interexchange carriers and other whose services the company may resell. Rogers also states that the company has substantial technical resources of its own.

Rogers also addressed the company's intent to provide quality services, its billing, its procedure for reporting problems and requesting repairs, its intent to support universal service, the effect of awarding a Certificate to VoiceMagic Telecom on the availability of affordable local exchange service, the public interest effects of the possible granting of the certificate, and other pertinent facts relating to the necessary findings for the granting of a certificate to provide local service under S.C. Code Section 58-9-280 (Supp. 1997).

The prefiled testimony of SCTA witness Jerry Hendrix was withdrawn at the hearing, as was the rebuttal testimony of the companies' witness M. Steven Rogers.

After full consideration of the applicable law, the Company's application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law.

### **FINDINGS OF FACT**

1. VoiceMagic Telecom is organized as a corporation under the laws of the State of South Carolina.
2. VoiceMagic Telecom wishes to provide local exchange services and interexchange services within the State of South Carolina.
3. The Commission finds that VoiceMagic Telecom possesses the managerial, financial, and technical resources sufficient to provide the service requested.
4. The Commission finds that VoiceMagic Telecom's "provision of service will not adversely impact the availability of affordable local exchange service."
5. The Commission finds that VoiceMagic Telecom will support universally available telephone service at affordable rates.
6. The Commission finds that VoiceMagic Telecom will provide services which will meet the service standards of the Commission.
7. The Commission finds that the provision of local exchange service by VoiceMagic Telecom does not adversely impact the public interest.

**CONCLUSIONS OF LAW**

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to VoiceMagic Telecom to provide competitive intrastate local exchange services in the areas of South Carolina served by BellSouth, GTE, and Sprint/United and to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), directory assistance, travel card service or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. VoiceMagic Telecom shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters.

3. The Commission adopts a rate design for VoiceMagic Telecom for its long distance services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

With regard to its long distance services rates, VoiceMagic Telecom shall not adjust its rates below the approved maximum level without notice to the Commission and to the public. VoiceMagic Telecom shall file its proposed rate changes, publish its notice

of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1997).

4. If it has not already done so by the date of issuance of this Order, VoiceMagic Telecom shall file its revised maximum long distance tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

5. VoiceMagic Telecom is subject to access charges pursuant to Commission Order No. 86-584 in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

6. With regard to the Company's resale interexchange service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. VoiceMagic Telecom shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If VoiceMagic Telecom changes underlying carriers, it shall notify the Commission in writing.

8. With regard to the origination and termination of toll calls within the same LATA, VoiceMagic Telecom shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993).

9. VoiceMagic Telecom shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

10. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

VoiceMagic Telecom shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. Attachment B shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the



representatives are replaced, and the Company is directed to comply with the Commission regulations unless waived by the Commission.

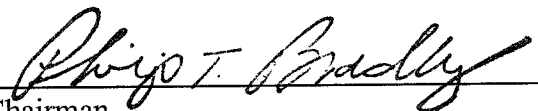
11. VoiceMagic Telecom shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

12. VoiceMagic, Inc. shall be required to provide all voice to voice communications services in compliance with this Order and Order No. 98-490 on or before February 1, 1999. The period of time between the date of this Order and February 1, 1999 shall be used by VoiceMagic, Inc. to notify its current customers of any changes in services being provided as of the date of this Order.

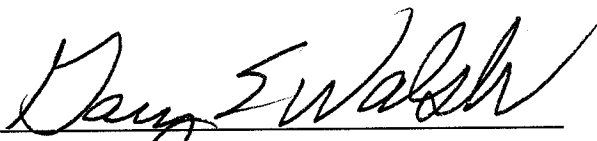
13. VoiceMagic Telecommunications, Inc. shall be bound by and VoiceMagic, Inc. shall continue to be bound by all requirements in Commission Order No. 98-490.

14. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)

**ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS  
FOR INTEREXCHANGE COMPANIES AND AOS'S**

\_\_\_\_\_  
COMPANY NAME

\_\_\_\_\_  
FEI NO.

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
CITY, STATE, ZIP CODE

\_\_\_\_\_  
PHONE NUMBER

- (1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING  
DECEMBER 31 OR FISCAL YEAR ENDING \_\_\_\_\_.
- (2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING  
DECEMBER 31 OR FISCAL YEAR ENDING \_\_\_\_\_.
- (3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS\* FOR  
12 MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING \_\_\_\_\_.
- \* THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,  
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION WORK IN  
PROGRESS, ACCUMULATED DEFERRED INCOME TAX, CONTRIBUTIONS IN AID OF  
CONSTRUCTION AND CUSTOMER DEPOSITS.
- (4) PARENT'S CAPITAL STRUCTURE\* AT DECEMBER 31 OR FISCAL YEAR ENDING  
\_\_\_\_\_.
- \* THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT PORTION  
PAYABLE), PREFERRED STOCK AND COMMON EQUITY.
- (5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND  
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING  
DECEMBER 31 OR FISCAL YEAR ENDING \_\_\_\_\_.
- (6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE AMOUNT  
OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS WELL AS  
METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT (SEE #3  
ABOVE).

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
NAME (PLEASE TYPE OF PRINT)

\_\_\_\_\_  
TITLE

DOCKET NO. 98-413-C - ORDER NO. 1999-4  
JANUARY 5, 1999  
ATTACHMENT B

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**INFORMATION OF THE AUTHORIZED UTILITY  
REPRESENTATIVES FOR INTEREXCHANGE, LOCAL  
AND AOS COMPANIES**

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION  
REGULATION 103-612.2.4(b), each utility shall file and maintain with the Commission  
the name, title, address, and telephone number of the persons who should be contacted in  
connection with Customer Relations/Complaints.

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Company Name/DBA Name

---

Business Address

---

City, State, Zip Code

---

Authorized Utility Representative (Please Print or Type)

---

Telephone Number

Fax Number

---

E-Mail Address

---

This form was completed by      Signature

If you have any questions, contact the Consumer Services Department at 803-737-5230

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BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 98-413-C - ORDER NO. 1999-4  
JANUARY 5, 1998

IN RE: Application of VoiceMagic, Inc. and	)	
VoiceMagic Telecommunications, Inc.	)	
for a Certificate of Public Convenience and	)	
Necessity to Operate as a Competitive	)	SUPPLEMENTAL ORDER
Local Exchange Carrier and as a Reseller	)	TO AMEND
of Interexchange Telecommunications	)	PSC ORDER NO. 1999-4
Services with the State of South Carolina.	)	

This matter is before The Public Service Commission of South Carolina ("Commission") upon motion of VoiceMagic, Inc. and VoiceMagic Telecommunications, Inc. ("VoiceMagic") to amend SCPSC Order No. 1999-4 so as to change the compliance date to provide all voice to voice communications services to March 3, 1999, rather than February 1, 1999. The Commission Staff and the South Carolina Telephone Association consent to VoiceMagic's motion.

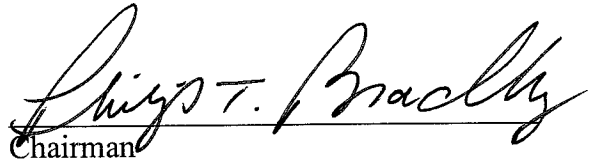
Therefore, paragraph 12 on page 9 of SCPSC Order No. 1999-4 is amended to read:

12. VoiceMagic, Inc. shall be required to provide all voice to voice communications services in compliance with this Order and Order No. 98-490 on or before March 3, 1999. The period of time between the date of this Order and March 3, 1999 shall be used by VoiceMagic, Inc. to notify its current customers of any changes in services being provided as of the date of this Order.

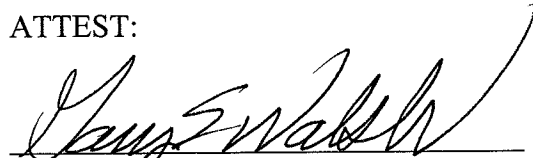
Further, paragraph 14 on page 10 of SCPSC Order No. 1999-4 is renumbered as paragraph 15 and a new paragraph 14 is inserted, which shall read as follows:

14. BellSouth Telecommunications, Inc., GTE South, Incorporated, and United Telephone Company of the Carolinas, Inc., are instructed to meet and/or discuss with VoiceMagic, Inc. and/or its representatives the service offerings of the respective companies as soon as possible but not later than February 15, 1999.

BY ORDER OF THE COMMISSION:


  
Chairman

ATTEST:

  
Executive Director

(SEAL)


WE SO MOVE:

  
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Valerie Palmer Williams  
HOLMES & THOMSON, L.L.P.  
Post Office Box 2844  
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(803) 929-1070

Attorneys For Voicemagic, Inc. And  
Voicemagic Telecommunications, Inc.

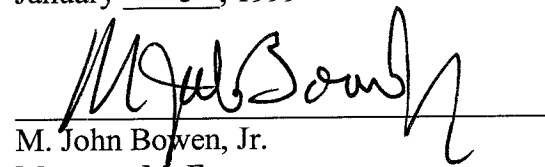
January 28, 1999

WE CONSENT:

  
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General Counsel  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA  
Post Office Box 11649  
Columbia, South Carolina 29211  
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Attorney For Public Service  
Commission Of South Carolina

January 28, 1999

  
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January 28, 1999